

Can my body corporate give me a speeding fine?

By Natalie Steenkamp |

"I live in a large sectional title complex. I enjoy living there, but some of the rules are getting a bit much. I've received a traffic fine in my levy statement for driving faster than the 35km/hour speed limit applying within the complex. Surely the body corporate cannot start issuing traffic fines within the complex?"

The Sectional Title Act makes provision for two sets of rules to regulate sectional title schemes, namely management rules and conduct rules. In your situation it is probably the conduct rules that are relevant and will be discussed below.

The conduct rules generally focus on regulating the day-to-day conduct of the owners and occupiers of the sectional units in a scheme. These rules ensure that owners and occupiers do not use their sections or common property in such a way that it infringes on other people's rights to use and enjoy their own sections and the common property. The body corporate can accordingly be authorised to impose rules for speed restrictions inside the sectional title complex and enforce such restrictions through penalties or fines.

Importantly though, is that these rules will not be enforceable if they are not incorporated in the conduct rules of the scheme. To be enforceable, a rule must be:

- Reasonable, fair and equally applied to all owners and occupiers in the complex.
- Drafted and approved via a special resolution of the body corporate.
- Filed at the Deeds Office in order to be binding on the body corporate.

Once this has been done a rule that transgressions of a 35 km/hour speed restriction be penalised through a fine will be enforceable. But if these conduct rules don't provide for such fines, then the fine cannot be enforced.

To ascertain whether the conduct rules of your sectional title provide for such fines obtain a copy of the conduct rules from the body corporate or have your lawyer obtain a copy of the rules from the Deeds Office.